

U.S. Department of Justice
Criminal Division
Human Rights and Special Prosecutions Section



GUIDE TO HUMAN RIGHTS STATUTES

The Human Rights and Special Prosecutions Section (HRSP) investigates and, where appropriate, prosecutes cases against human rights violators and other international criminals. Specifically, HRSP investigates and prosecutes human rights abusers who have violated U.S. criminal laws, including those prohibiting genocide, torture, war crimes, and the recruitment or use of child soldiers. HRSP also investigates and prosecutes persons for immigration and naturalization fraud arising from efforts to hide involvement in human-rights related crimes. This guide has been prepared to provide a basic overview of various U.S. statutes that apply to human rights-related crimes. These can be complex matters and, in many instances, U.S. human rights-related laws may differ in some respects from similar legislation in other countries and in the statutes of contemporary international and hybrid tribunals.

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INTRODUCTORY NOTES

- Most of the provisions discussed below were enacted by Congress to implement treaty obligations of the United States. As with all treaty obligations, it may be necessary to review any reservations, declarations, and understandings filed by the United States with its instrument of ratification and possibly thereafter.
 - Federal criminal laws of the United States generally do not incorporate the international legal concept of “command or superior responsibility” as that term is used by contemporary international and hybrid tribunals. However, in some instances, conduct can be reached through the application of U.S. laws on conspiracy or aiding and abetting. Conspiracy requires that two or more persons agreed to commit a crime. Aiding and abetting applies to one who “aids, abets, counsels, commands, induces, or procures” the commission of a crime.
 - For purposes of convenience, brevity, and readability, we have paraphrased the language of certain conventions and statutes. The reader is cautioned to refer to primary source documents for complete and verbatim texts.
 - Dates of enactment and amendment are important. The U.S. Constitution prohibits *ex post facto* (i.e., retroactive) application of criminal laws to acts that predate criminalization of the conduct.
 - Likewise, statutes of limitations (which limit the time the government has to bring criminal charges after the conduct occurred) can differ, even in the context of a single statute, depending upon the particular facts of the conduct that is being charged.
 - The following summaries relate to U.S. laws criminalizing torture, genocide, war crimes and the use and recruitment of child soldiers. Depending on the facts, other criminal statutes might be used against human rights abusers, either in addition or as alternatives to the aforementioned laws. Examples include certain violent crime statutes with extraterritorial effect outside the U.S., material support to terrorism, the Military Extraterritorial Jurisdiction Act (MEJA), or charges related to immigration fraud.
- GENOCIDE - 18 U.S.C. § 1091**
- The offense of genocide in U.S. law criminalizes the following acts when committed against a particular national, ethnic, racial, or religious group:
- killing members of the group;
 - causing serious bodily injury to members of the group;
 - causing permanent impairment of mental faculties to members of the group through drugs, torture, or similar techniques;
 - subjecting the group to conditions of life intended to cause physical destruction of a group in whole or in part;
 - imposing measures intended to prevent births within the group; or
 - forcibly transferring children of the group to another group.
- In order to constitute genocide, the above acts must be committed with specific intent to destroy, in whole or substantial part, the national, ethnic, racial, or religious group in question. Genocide can occur regardless of the existence of an armed conflict.
- The U.S. currently possesses jurisdiction over genocide if:
1. the offense is committed in whole or in part within the U.S.; or
 2. the offender is a U.S. national or a lawful permanent resident; or
 3. the offender is a stateless individual with habitual residence in the U.S.; or
 4. the offender is present in the United States.
- Statute of Limitations
- The statute of limitations for all acts of genocide was eliminated by the Human Rights Enforcement Act of 2009 (P.L. 111-122, Dec. 22, 2009). Prior to the December 2009 amendments, most genocidal acts not resulting in death were subject to a five-year statute of limitations.

Notes

1. This statute generally has been understood to apply only to conduct occurring after November 4, 1988, i.e., the date of the statute's initial enactment.
2. Prior to December 22, 2009, the statute had an internal attempt provision, but no internal conspiracy provision. As of December 22, 2009, the statute criminalizes both conspiracy and attempt.

TORTURE - 18 U.S.C. §§ 2340-2340A

The federal torture statute applies to acts committed outside the United States by a person acting under the color of law, if the person specifically intended to inflict severe physical or mental pain or suffering upon another person within the perpetrator's custody or physical control. The statute presently criminalizes the commission, attempt, and conspiracy to commit torture. There is an exception for pain and suffering incidental to lawful sanctions.

The U.S. currently possesses jurisdiction over torture if:

1. the offender is a U.S. national, or
2. the offender is present in the U.S. (irrespective of nationality of the offender or victim).

Statutes of Limitations

- In some instances, the statute of limitations for torture is eight years from the date of the crime's commission. In other instances, prosecution is not barred by a statute of limitations.

Notes

1. This statute applies only to conduct occurring on or after November 20, 1994, i.e., the date of the statute's initial enactment.
2. Although the statute contains an internal conspiracy provision, it was not enacted until October 26, 2001, by the USA PATRIOT Act, Pub. L. No. 107-56, § 811(g). Thus, conspiracy to commit torture can only be charged in relation to conduct occurring after October 26, 2001.

RECRUITMENT OR USE OF CHILD SOLDIERS - 18 U.S.C. § 2442

The federal statute prohibiting the recruitment or use of child soldiers applies to a person who knowingly recruits, enlists or conscripts children under 15 years of age into an armed force or group or who knowingly uses a child under 15 to actively participate in hostilities. The child soldier recruited, enlisted, conscripted, or used must be under 15 years of age and the defendant must have known that the child was under 15 at the time.

The U.S. currently possesses jurisdiction over the recruitment or use of child soldiers if:

1. the offender is a U.S. national or a lawful permanent resident; or
2. the offender is a stateless person with habitual residence in the U.S.; or
3. the offender is present in the U.S. (irrespective of nationality of the offender); or
4. the offense occurred in whole or in part within the United States.

Statute of Limitations

Criminal charges must be filed against a potential defendant within ten years of the crime's commission. *See* 18 U.S.C. § 3300.

Notes

This statute applies only to conduct occurring on or after October 3, 2008, i.e., the date of the statute's initial enactment.

WAR CRIMES - 18 U.S.C. § 2441

The federal war crimes statute was first enacted in 1996 and has been substantively amended multiple times. The statute's applicability varies based on the date of the alleged offense, the type of offense, and the character of the armed conflict. The statute is particularly complicated. In some instances, the statute criminalizes "grave breaches" of the Geneva Conventions and portions of the Annex to the 1907 Hague Convention IV Respecting the Laws and Customs of War on Land. In other circumstances, the statute criminalizes

“grave breaches of Common Article 3,” including torture, murder, rape, and hostage-taking. Other crimes are also punishable under the statute.

The U.S. currently possesses jurisdiction over war crimes only if:

1. the offender or victim is a member of the U.S. Armed Forces, or
2. the offender or victim is a U.S. national.

Statute of Limitations

- If the commission of a war crime results in death, prosecution is not barred by a statute of limitations. *See* 18 U.S.C. 2441(a) and 3281.
- In all other instances, other war crimes are generally subject to a five-year statute of limitation from the date of the crime’s commission.

Notes

This statute applies only to conduct occurring on or after August 21, 1996, i.e., the date of the statute’s initial enactment.

CONTACT INFORMATION

The Human Rights and Special Prosecutions Section actively seeks out information that may assist the U.S. Government in identifying human rights violators who may have entered the United States.

If you know of anyone in the United States or of any U.S. citizen anywhere in the world who may have been involved in perpetrating human rights violations abroad, please contact HRSP either by phone, **1-800-813-5863**, email at **hrsptips@usdoj.gov**, or by postal mail at:

Human Rights and Special Prosecutions Section (Tips)
Criminal Division
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

You do not have to identify yourself when providing information. Please provide as much detail as possible, such as:

1. the suspect's name, place and date of birth;
2. physical description, and current location;
3. the suspect's alleged human rights violations including the locations and dates of those activities; and
4. how you learned of the suspect’s alleged activities and when and where you saw the suspect.

We are unable to reply to every submission; however, your information will be reviewed promptly by HRSP.

Information on non-U.S. citizen suspects living in the United States may also be provided to Immigration and Customs Enforcement in the Department of Homeland Security, at 1-866-347-2423 (a toll-free call).